



**DEPARTMENT OF
FINANCE**
OFFICE OF THE DIRECTOR

GAVIN NEWSOM - GOVERNOR
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May 17, 2019

Ms. Susan Hsieh, Finance Director
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608

Dear Ms. Hsieh:

Subject: 2019-20 Annual Recognized Obligation Payment Schedule

This letter supersedes the California Department of Finance's (Finance) Recognized Obligation Payment Schedule (ROPS) letter dated April 15, 2019. Pursuant to Health and Safety Code (HSC) section 34177 (o) (1), the Emeryville Successor Agency (Agency) submitted an annual ROPS for the period July 1, 2019 through June 30, 2020 (ROPS 19-20) to Finance on January 25, 2019. The Agency requested a Meet and Confer on one or more of the determinations made by Finance. The Meet and Confer was held on April 25, 2019.

Based on a review of additional information and documentation provided to Finance during the Meet and Confer process, Finance has completed its review of the specific determinations being disputed:

- Item No. 121 – Environmental Oversight Agreement in the total outstanding amount of \$150,000. Finance no longer denies this item. Finance initially denied this item because the Agency executed a new agreement for this item without approval from the Oversight Board (OB).

However, this item is a resubmission of Item No. 43, Environmental Oversight Agreement, which relates to a previously approved agreement between the Agency and the Department of Toxic Substances Control (DTSC). That agreement, as well as the new agreement, was for remediation oversight costs related to the property known as South Bayfront Site B on the Agency's approved Long-Range Property Management Plan. The Agency agreed to retire Item No. 43 in ROPS 19-20 because the agreement expired. Since the new agreement with DTSC represents a continuation of a previously approved agreement, Finance Item No. 121 is allowed. Based on this and additional information provided during Meet and Confer review, the requested amount of \$75,000 is approved in Redevelopment Property Tax Trust Fund (RPTTF).

In the future, the Agency should submit any new agreements to the OB for separate review and approval from the ROPS. Once a corresponding OB resolution is submitted to Finance for review and approval, the Agency may then request funding on a subsequent ROPS.

- Item No. 123 – Professional Services Agreement in the total outstanding amount of \$2,995,000. Finance continues to deny this item. Finance initially denied this item because the Agency executed a new agreement for this item without approval from the OB. During the Meet and Confer review, the Agency contended the OB approved the new agreement as part of the approval for ROPS 19-20. Further, the Agency stated they are allowed to enter into this new agreement pursuant to HSC section 34177.3 (a), which allows a successor agency to create a new enforceable obligation in order to comply with an existing enforceable obligation.

However, this item is a resubmission of Item No. 51, Professional Services Agreement, which has been denied as an enforceable obligation in prior ROPS periods. The Agency did not provide any new documentation or information that was not previously provided for Item No. 51 during prior ROPS reviews. Therefore, the requested amount of \$2,995,000 in RPTTF is not allowed.

In addition, per Finance's letter dated April 15, 2019, we continue to make the following determinations not contested by the Agency during the Meet and Confer review:

- Item No. 122 – Imminent and Substantial Endangerment Order in the total outstanding amount of \$150,000 is not allowed. It is our understanding the obligation is related to reimbursing a third-party for costs incurred. Documents were not submitted to support the third-party had incurred any costs requiring a reimbursement. Therefore, this item is not an enforceable obligation and the requested amount of \$150,000 in RPTTF is not allowed.
- Item No. 124 – Environmental Insurance Policy in the total outstanding amount of \$175,000 is not allowed. The property associated with the insurance policy was approved for transfer to the City of Emeryville during Finance's review of the Agency's Long-Range Property Management Plan. As such, any costs associated with the property not related to remediation is the City's responsibility. Therefore, this item is not an enforceable obligation and the requested amount of \$175,000 in RPTTF is not allowed.

Pursuant to HSC section 34186, successor agencies are required to report differences between actual payments and past estimated obligations. Reported differences in RPTTF are used to offset current RPTTF distributions. The amount of RPTTF approved in the table on Page 4 includes the prior period adjustment resulting from the County Auditor-Controller's review of the prior period adjustment form submitted by the Agency.

The Agency's maximum approved RPTTF distribution for the reporting period is \$13,888,980 as summarized in the Approved RPTTF Distribution table on Page 4 (see Attachment).

RPTTF distributions occur biannually, one distribution for the July 1 through December 31 period (ROPS A period), and one distribution for the January 1 through June 30 period (ROPS B period) based on Finance approved amounts. Since this determination is for the entire ROPS 19-20 period, the Agency is authorized to receive up to the maximum approved RPTTF through the combined ROPS A and B period distributions.

This is Finance's final determination regarding the obligations listed on the ROPS 19-20. This determination only applies to items when funding was requested for the 12-month period. If a denial by Finance in a previous ROPS is currently the subject of litigation, the item will continue to be denied until the matter is resolved.

The ROPS 19-20 form submitted by the Agency and this determination letter will be posted on our website:

<http://dof.ca.gov/Programs/Redevelopment/ROPS/>

This determination is effective for the ROPS 19-20 period only and should not be conclusively relied upon for future ROPS periods. All items listed on a future ROPS are subject to review and may be denied even if not denied on this ROPS or a preceding ROPS. The only exception is for items that have received a Final and Conclusive determination from Finance pursuant to HSC section 34177.5 (i). Finance's review of Final and Conclusive items is limited to confirming the scheduled payments as required by the obligation.

The amount available from RPTTF is the same as the amount of property tax increment available prior to the enactment of redevelopment dissolution law. Therefore, as a practical matter, the ability to fund the items on the ROPS with property tax increment is limited to the amount of funding available to the Agency in RPTTF.

Please direct inquiries to Joshua Mortimer, Supervisor, or Stephen Franz, Analyst, at (916) 322-2985.

Sincerely,



 JENNIFER WHITAKER
Program Budget Manager

cc: Mr. Michael Guina, City Attorney, City of Emeryville
Ms. Carol S. Orth, Tax Analysis, Division Chief, Alameda County

Attachment

Approved RPTTF Distribution For the period of July 1, 2019 through June 30, 2020			
	ROPS A Period	ROPS B Period	ROPS 19-20 Total
RPTTF Requested	\$ 4,366,000	\$ 13,444,905	\$ 17,810,905
Administrative RPTTF Requested	201,565	201,565	403,130
Total RPTTF Requested	4,567,565	13,646,470	18,214,035
RPTTF Requested	4,366,000	13,444,905	17,810,905
<u>Adjustments:</u>			
Item No. 122	(75,000)	(75,000)	(150,000)
Item No. 123	(1,500,000)	(1,495,000)	(2,995,000)
Item No. 124	(175,000)	0	(175,000)
	<u>(1,750,000)</u>	<u>(1,570,000)</u>	<u>(3,320,000)</u>
RPTTF Authorized	2,616,000	11,874,905	14,490,905
Administrative RPTTF Authorized	201,565	201,565	403,130
Total RPTTF Authorized for Obligations	2,817,565	12,076,470	14,894,035
Prior Period Adjustment	(1,005,055)	0	(1,005,055)
Total RPTTF Approved for Distribution	\$ 1,812,510	\$ 12,076,470	\$ 13,888,980